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**NOV 23 2004**

**OFFICE OF PETITIONS**

In re Application of  
Todd Barrett  
Application No. 09/960,223  
Filed: September 20, 2001  
Attorney Docket No. 1092-PA428

ON PETITION

This is a decision in response to a petition, filed September 20, 2004, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed); which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(l); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition lacks item (3).

The petition appears to be filed by the assignee; however, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a

chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office

A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed. For petitioner's convenience, a Statement under 37 CFR 3.73(b) is enclosed.

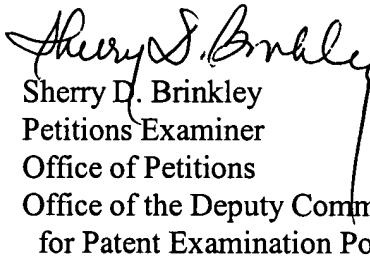
Further correspondence with respect to this matter should be addressed as follows:

By mail:                      Mail Stop PETITION  
                                    Commissioner for Patents  
                                    Post Office Box 1450  
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By hand:                     U.S. Patent and Trademark Office  
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                                    Crystal Plaza Two, Lobby, Room 1B03  
                                    Arlington, VA 22202

The centralized facsimile number is (703) 872-9306.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

Enclosure: Statement under 37 CFR 3.73(b)

cc:     JOHN R. ROSS  
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         10455 PACIFIC CENTER CT  
         SAN DIEGO, CA 92121